

## SUSTAINABILITY: RECENT ESG DEVELOPMENTS

### March 2021

Environmental, Social and Governance ("ESG") factors have fast risen to the top of the board agenda across all sectors, with increasing awareness that a failure to address these matters can be detrimental both financially and reputationally. Investor pressure, internal governance and the proliferation of regulatory requirements and voluntary standards across the globe makes this a complex area to manage.

This newsletter is intended to assist banks, financial investors and corporates in keeping up to date with ESG developments.

Further details of these and previous developments can also be found on our [Green and Sustainable Finance Topic Guide](#) on the [Clifford Chance Financial Markets Toolkit](#) and further related resources can be found on our [Clifford Chance ESG page](#).

This regular newsletter is a digest of key developments on Sustainability and ESG from around the Clifford Chance network, including:

- Legal and Regulatory Requirements
- Industry Guidance, Voluntary Codes and Publications
- Official Publications
- Advocacy Group Publications
- ESG Trends Emerging from COVID-19
- Clifford Chance Briefings and Blogs
- Clifford Chance Events

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## LEGAL AND REGULATORY REQUIREMENTS

### European Union

(1 March 2021) The European Supervisory Authorities (ESAs), (ESMA, EBA, EIOPA), separately published advice on the mandatory disclosure of key performance indicators (KPIs) for environmentally sustainable activities under Article 8 of the Taxonomy Regulation by firms within scope of the Non-Financial Reporting Directive (NFRD). Under Article 8, the Commission is due to adopt delegated acts by 1 June 2021. | [ESMA advice](#) | [EBA advice](#) | [EIOPA advice](#)  
**Environment Social Governance | Market-wide**

(1 March 2021) The European Banking Authority (EBA) launched a consultation on proposed implementing technical standards (ITS) on Pillar 3 disclosures of environmental, social and governance (ESG) risks. The draft ITS also set out proposals for a green asset ratio (GAR) which will allow institutions to identify the financing activities they undertake which are environmentally sustainable according to the EU taxonomy for sustainable activities. Comments are due by 1 June 2021. | [Press release](#) | [Consultation](#)  
**Environment Social Governance | Banks**

(25 February 2021) The European Supervisory Authorities published a joint supervisory statement on the consistent application and national supervision of the Sustainable Finance Disclosure Regulation (SFDR). The ESAs recommend the draft regulatory technical standards (RTS) be used as a reference when applying the provisions of the SFDR in the interim period between 10 March 2021 and the application of the RTS at a later date. The ESAs also set out in an Annex more specific guidance on the application of timelines of some SFDR provisions. The statement complements the recently released Final Report including the draft RTS issued by the ESAs Joint Committee. | [Press release](#) | [Statement](#) | [EBA press release](#) (4 February 2021) | [Final report](#) (2 February 2021)

**Environment Social Governance** | **Asset managers Banks**

(24-26 February 2021) The European Commission held a series of webinars on the EU taxonomy. The event explored five different aspects of the EU taxonomy:

- the role the EU taxonomy in stimulating finance for transition to environmental sustainability;
- possibility of extending the EU taxonomy framework beyond green activities;
- challenges and possible solutions to taxonomy-linked data and corporate reporting and disclosure;
- an insight into the work process of the Platform in developing the EU taxonomy criteria; and
- potential development of a social taxonomy.

| [Virtual event 24 February 2021](#) | [Virtual event 26 February 2021](#) | [Streaming service page](#)

**Environment Social Governance** | **Market-wide**

(24 February 2021) The European Commission adopted a new EU Strategy on Adaptation to Climate Change, setting out how the European Union can adapt to the unavoidable impacts of climate change and become climate resilient by 2050. |

[Press release](#) | [COM\(2021\) 82 final](#) | [Questions and Answers](#)

**Environment Social** | **Market-wide**

## Spain

(18 February 2021) The Comisión Nacional del Mercado de Valores (CNMV) published a Public Statement on the forthcoming implementation of Regulation 2019/2088 on the disclosure of sustainability information in the financial sector which establishes harmonised rules to be applied by financial market participants from 10 March 2021. |

[Statement](#) (in Spanish)

**Environment Social Governance** | **Asset managers Banks**

## United States of America

(24 February 2021) The Securities and Exchange Commission (SEC) will be updating the SEC's climate related disclosure guidance of 2010 and the extent to which public companies address the topics identified in that 2010 guidance. The SEC is also planning to develop a more comprehensive framework that produces consistent, comparable, and reliable climate-related disclosures - likely to take the form of mandatory climate disclosure that does not follow a principles-based approach. | [Statement](#) | [2010 guidance](#)

**Environment Social Governance** | **Corporates**

(19 February 2021) The United States officially rejoined the Paris Agreement on 19 February 2021 having spent 107 days outside the international pact. | [United Nations acceptance statement](#) (20 January 2021) | [United Nations registration](#) (20 January 2021) | [White House statement](#) (20 January 2021) | [The Paris Agreement](#)

**Environment Social** | **Market-wide**

(11 February 2021) Two US senators and two US State representatives have introduced the Senate Bill 224 (the 'Bill') for the Promoting Digital Privacy Technologies Act to both the US Senate and House. The Bill would, among other things, require the National Science Foundation ('NSF') to promote research into privacy enhancing technologies ('PETs') and develop standards for the integration of PETs into public and private sector data use. Specifically, the Bill would require the NSF to support research into fundamental issues including: (i) technologies for de-identification, pseudonymisation, anonymisation, or obfuscation of personal data in datasets while maintaining fairness, accuracy and efficiency; (ii) algorithms and other similar mathematical tools used to protect individual privacy when collecting, storing, sharing or

aggregating data; and (iii) technologies that promote data minimisation principles in data collection, sharing and analytics. | [Senate Bill 224](#)

**Social** | **Market-wide**

(27 January 2021) President Biden's Executive Order on Tackling the Climate Crisis at Home and Abroad addressed the growing threat of climate change and put the climate crisis at the forefront of the United States' foreign policy and national security considerations. The Executive Order established the White House Office of Domestic Climate Policy, led by National Climate Advisor Gina McCarthy, and directed federal agencies to conduct security analyses of climate change and engage in clean energy projects and goals. The Order also prohibited the US government from issuing new permits for drilling on federal property and laid out plans for international cooperation on climate change policy. | [Executive Order](#)

**Environment Social** | **Market-wide**

## INDUSTRY GUIDANCE, VOLUNTARY CODES AND PUBLICATIONS

### International

(11 February 2021) The Loan Market Association (LMA), the Asia Pacific Loan Market Association (APLMA) and the Loan Syndications and Trading Association (LSTA) published a revised version of the Green Loan Principles (GLP) and the Guidance on Green Loan Principles (GLP Guidance). | [Principles](#) | [Updated guidance](#)

**Environment Social Governance** | **Market-wide**

(2 February 2021) The International Financial Reporting Standards (IFRS) Foundation trustees met to review the responses to the first three questions asked by their consultation paper on sustainability reporting and released a timeline about the next steps in regards to the global sustainability standards review. | [Press release](#) | [Consultation paper and responses](#)

**Environment Social Governance** | **Market-wide**

(26 January 2021) At this year's World Economic Forum annual meeting in Switzerland (which took place online rather than in Davos), sixty-one companies across several industries signed the Stakeholder Capitalism Metrics, a set of twenty-one ESG standards that focus on sustainability, transparency, and accountability in business. Some areas of focus were air pollution, nature loss, dignity and equality, and employment and wealth generation. The signatory organizations committed to making annual reports to their shareholders on these twenty-one metrics to reinforce ESG standards across the industries and encourage reporting on these non-financial metrics. | [Press Release](#) | [White paper](#) (September 2020)

**Environment Social Governance** | **Market-wide**

### European Union

(8 February 2021) Various trade associations responded to the European Commission's consultation on sustainable corporate governance. | [Eurosif response](#) | [European Fund and Asset Management Association \(EFAMA\) response](#) | [Better Finance response](#) | [The Local Authority Pension Fund Forum](#)

**Environment Social Governance** | **Market-wide**

(3-4 February 2021) Various trade associations, (European Banking Federation (EBF), ISDA and AFME) responded to the EBA consultation on management and supervision of ESG risks for credit institutions and investment firms. | [EBF press release](#) | [EBF response](#) | [ISDA and AFME press release](#) | [ISDA and AFME response](#) | [EBA consultation](#)

**Environment Social Governance** | **Financial institutions**

### United Kingdom

(24 February 2021) The Investment Association (IA) published its Good Stewardship Guide 2021 along with the Shareholder Priorities setting out the IA's expectations of companies during the 2021 AGM season. | [Press release](#) | [Stewardship Guide](#) | [Shareholder Priorities](#) (January 2021)

**Governance** | **Asset managers**

## OFFICIAL PUBLICATIONS

### International

(26 February 2021) The Board of the International Organization of Securities Commissions (IOSCO) published its work programme for 2021 to 2022. The work will address three main areas:

- sustainability-related disclosures for issuers;
- sustainability-related disclosures for asset managers, including greenwashing; and
- credit rating agencies (CRAs), environmental, social, and governance (ESG) ratings, and ESG data providers.

The programme addresses a two year horizon and will be reviewed at the end of 2021. | [Press release](#) | [Work Programme](#)

**Environment Social Governance** | **Market-wide**

(24 February 2021) The International Organization of Securities Commission (IOSCO) issued a press release setting out the work it intends to undertake to improve the sustainability-related disclosures by companies and asset managers. Following the work conducted by IOSCO's Sustainable Finance Task Force (STF) in 2020, IOSCO concluded that investor demand for sustainability-related information is currently not being properly met and therefore identified three areas to focus on. | [Press release](#)

**Environment Social Governance** | **Asset managers Corporates**

(17 February 2021) UN Environment Programme (UNEP) published three finance initiative reports on climate risk management tools for the banking industry. This project involved 39 banks to pilot the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD). | [Press release](#) | [Pathways to Paris](#) | [Decarbonisation and Disruption](#) | [Climate Risk Landscape](#)

**Environment Social Governance** | **Banks Financial institutions**

(8 February 2021) UN Global Compact announced a new programme focussing on accelerating business performance on the Sustainable Development Goals (SDGs). | [Press release](#)

**Environment Social Governance** | **Corporates**

(8 February 2021) UN Sustainable Stock Exchanges (UN SSE) announced that the Tel Aviv Stock Exchange (TASE) has become a member of the UN Sustainable Stock Exchanges initiative. The SSE has a network of 100 stock exchanges around the world that are committed to promoting sustainable development. | [Press release](#)

**Environment Social Governance** | **Corporates**

(1 February 2021) UN Secretary-General António Guterres called on significant investors to set increasingly ambitious targets and adopt specific plans for achieving net-zero carbon emissions. | [Press release](#)

**Environment Social** | **Financial investors**

(19 January 2021) UN Global Compact announced a new three-year strategic plan to increase and accelerate corporate sustainability and principled business. | [Press release](#) | [Report](#)

**Environment Social Governance** | **Corporates**

### European Union

(20 February 2021) The European Commission's Joint Research Centre (JRC) published a report undertaken by a panel of economic experts on the Digital Markets Act proposal. | [Report](#)

**Social** | **Market-wide**

### France

(11 February 2021) Banque de France governor, François Villeroy de Galhau, gave a speech on the role of central banks in the greening of the economy. | [Press release](#)

**Environment** | **Banks**

## Germany

(27 January 2021) The German Government has adopted its Data Strategy (the 'Strategy'), consisting of more than 240 measures, which aims to make Germany a trailblazer in the innovative use of data and data sharing in Europe. The Strategy identifies four key fields of action:

- (i) making data infrastructure effective and sustainable;
- (ii) enhancing the innovative and responsible use of data while also preventing any misuse of data;
- (iii) developing data competency and establishing a data culture; and
- (iv) making the state a trailblazer.

[Data strategy paper](#) (in German)

**Social** | **Market-wide**

## Hong Kong

(26 February 2021) Eddie Yue, Chief Executive of the Hong Kong Monetary Authority (HKMA) mentioned in his speech at the Asian Academy of International Law Conference that the HKMA is co-operating with other regulators to green Hong Kong's financial system by setting supervisory expectations, encouraging climate disclosure, and building industry capacity. | [Transcript](#)

**Environment Social Governance** | **Market-wide**

(11 February 2021) The Securities and Futures Commission (SFC) posted on its website a keynote speech, 'Climate change and finance: What's next for global regulators?', delivered by Ashley Alder, Chief Executive Officer, at the Climate Risk and Green Finance Regulatory Forum 2021, 11 February 2021. | [Transcript](#)

**Environment Social Governance** | **Market-wide**

## The Netherlands

(8 February 2021) Dutch Government submitted its response to the European Commission on its Public Consultation Document Proposal and Roadmap for an Initiative on Sustainable Corporate Governance. The Dutch Government is currently undertaking an evaluation trajectory with regard to its policy on responsible business conduct (RBC). The basis of RBC is the application of due diligence by companies in line with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights. The conclusion of the trajectory is expected in the autumn of 2021. | [Press release](#) (in Dutch) | [Press release](#) (in English)

**Environment Social Governance** | **Market-wide**

## Spain

(4 February 2021) Banco de España adopted the Eurosystem's common stance for sustainable investment. The Bank of Spain subscribes to the decision adopted by the Eurosystem to establish a common stance for climate change-related sustainable investment in non-monetary policy, euro-denominated portfolios. The decision announced by the European Central Bank (ECB) will allow Eurosystem member countries to embark on the transition to a decarbonised economy, in keeping with the goals set by the EU to combat climate change. | [Banco de España press release](#) | [ECB press release](#)

**Environment Social** | **Market wide**

## United Kingdom

(24 February 2021) The Hampton-Alexander Review published its final report on gender balance in UK-listed companies, 'Improving gender balance - 5 year summary report'. The Hampton-Alexander Review, a UK government backed initiative,

encourages FTSE 350 companies to improve gender balance in senior leadership positions and FTSE boards. | [UK government press release](#) | [FTSE press release](#) | [Summary report](#)  
**Social** | **Corporates**

(11 February 2021) The UK's Department for Digital, Culture, Media & Sport (DCMS) published its draft rules for governing the future use of digital identities (the 'Trust Framework'), along with an open call for comments and feedback. The Trust Framework's requirements for organisations include: (i) having a data management policy which explains how they create, obtain, disclose, protect and delete data; (ii) following industry standards and best practices for information security and encryption; (iii) informing the user if any changes have been made to their digital identity; (iv) where appropriate, having a detailed account recovery process and notifying users if organisations suspect someone has fraudulently accessed their account or used their digital identity; and (v) following guidance on how to choose secure authenticators for their service. Once the Trust Framework is finalised, it is expected to be brought into law. Comments can be provided until 12pm on Thursday 11 March 2021. | [Press release](#) | [Trust Framework paper](#)  
**Social** | **Market-wide**

(15 February 2021) The UK Government announced the creation of a new UK Centre for Greening Finance and Investment (CGFI), with physical hubs in Leeds and London. The CGFI, which will launch in April 2021, is aimed at analysing and providing the latest environmental and scientific intelligence to financial institutions and investors around the world to support their investment and business decisions by considering the impact on the environment and climate change. | [Press release](#)  
**Environment Social Governance** | **Financial institutions**

(2 February 2021) HM Treasury published The Dasgupta Review, an independent, global review on the Economics of Biodiversity led by Professor Sir Partha Dasgupta. The Review calls for changes in how we think, act and measure economic success to protect and enhance our prosperity and the natural world. | [Press release](#) | [Report](#) (610 pages) | [Webpage](#)  
**Environment Social Governance** | **Market-wide**

## United States of America

(1 February 2021) The Securities and Exchange Commission (SEC) appointed Satyam Khanna to be the agency's first Senior Policy Advisor for Climate and ESG. He will analyse and advise on climate risk and ESG in SEC regulations. | [Press release](#)  
**Environment Social Governance** | **Market-wide**

## ADVOCACY GROUP PUBLICATIONS

### United Kingdom

(20 January 2021) All Party Parliamentary Group on local authority pension funds launched an inquiry and a call for evidence into responsible investment for a just transition to a net zero economy. Its findings will be published ahead of the UN climate change conference in Glasgow in November 2021. | [Press release](#)  
**Environment Social** | **Pension funds**

## ESG TRENDS EMERGING FROM COVID-19

### Spain

(8 February 2021) The Comisión Nacional del Mercado de Valores (CNMV) published a Public Statement entitled 'The CNMV discloses its priorities for supervising the annual accounts of issuing companies'. In the supervision of the 2020 accounts, particular attention will be paid to the application of the going concern principle, transparency on the use of significant judgements and estimates and to the criteria for the presentation in the financial statements of the impact of COVID-19. It will also examine asset impairments, liquidity risk, the methodology for determining expected loss and increase in credit risk, as well as lessee accounting. Likewise, the review of the breakdowns of



the non-financial statement (NFS) will continue, also focusing on matters such as the social issues affected by COVID-19. | [Statement](#)

[Social Governance](#) | [Corporates](#)

## CLIFFORD CHANCE BRIEFINGS AND BLOGS

- (2 March 2021) Clifford Chance Briefing: [ESG Initiatives - From Politics to the Lending Market](#)
- (25 February 2021) Clifford Chance Briefing: [ESG: Trends to watch in 2021](#)
- (24 February 2021) Clifford Chance Briefing: [Your 2021 AGM Update and Beyond](#)
- (23 February 2021) Clifford Chance Blog: [A Shift in US Climate Change Law and Litigation – Impacts on Business Take Shape](#)
- (23 February 2021) Clifford Chance Briefing: [Focus on Hydrogen: Belgian Energy Industry in the Starting Blocks](#)
- (18 February 2021) Clifford Chance Briefing: [ESG: Sustainable Corporate Governance and New Due Diligence Duties in Europe](#)
- (17 February 2021) Clifford Chance Briefing: [Focus on Hydrogen: Poland sets Ambitious Clean Energy Goals in its Draft Hydrogen Strategy](#)
- (17 February 2021) Clifford Chance Briefing: [Statutory quotas and targets to improve gender balance within Dutch large company boards](#)
- (15 February 2021) Clifford Chance Briefing: [Focus on Hydrogen: Role of Hydrogen in Turkey's Energy Transition](#)
- (11 February 2021) Clifford Chance News: [Clifford Chance advises on Southeast Asia's first public sustainability-linked bond issuance](#)
- (3 February 2021) Clifford Chance Briefing: [Evergreen bonds: an introduction to post-issuance green bond reporting in Europe](#)
- (1 February 2021) Clifford Chance Blog: [Plug the leak: Australian Regulator orders Australian Government Agency to compensate victims for unlawful personal information disclosure](#)

## CLIFFORD CHANCE EVENTS

(16 February 2021) Insights for Asset Managers: [Implementing SFDR: challenges arising](#)

(26 January 2021) Clifford Chance Spain [webinar on Green Hydrogen](#): a webinar analysing the role of Spain in the development of the renewable hydrogen, the state of regulation and the main challenges for project banking.

(25 -29 January 2021) Clifford Chance participated in The Davos Agenda, a virtual global event organised by the World Economic Forum. The firm's official delegation for The Davos Agenda, including the private meetings, comprised of Clifford Chance's Managing Partner Matthew Layton, Global Senior Partner Jeroen Ouwehand, Partner Kate Gibbons and Singapore Office Managing Partner Kai-Niklas Schneider. Jeroen Ouwehand was a panel member on the [Greening Trade](#) discussion. | [Davos Agenda](#)

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